

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA
FIFTH DIVISION**

Electrical Workers Health and
Welfare Fund, Electrical Workers
Pension Fund, National Electrical
Benefit Fund, Electrical Workers
Vacation Fund, Twin Ports-Arrowhead
Electrical Apprenticeship and
Training Fund, National Electrical
Industry Fund, NECA-IBEW National
Labor-Management Cooperation Fund, and
International Brotherhood of Electrical
Workers Local 242,

Civil No.: 07-CV-2585 (RHK/RLE)

**ORDER GRANTING JUDGMENT
PURSUANT TO RULE 55(b)(2)**

Plaintiffs,

vs.

C & J Wagner, Inc., d/b/a McAllister
Electric Co.,

Defendant.

This matter came before the undersigned United States District Court Judge upon the Plaintiffs' Motion a Judgment under Rule 55(b)(2). Plaintiffs seek an Order granting a money judgment for the amounts due and owing for the hours worked from July 1, 2006 through October 31, 2007.

For reasons which follow, the Court grants Plaintiffs' motion.

FINDINGS OF FACT

1. This is an action to enforce an employer's obligation to make contributions to a multi-employer benefit plan under the terms of a Collective Bargaining Agreement, and for potential liquidated damages, together with an award of interest, reasonable attorneys' fees, and the costs of this action.

2. The Court has jurisdiction over this action pursuant to §§ 502 and 515 of the Employee Retirement Income Security Act ("ERISA"), Title 29 U.S.C. §§ 1132 and 1145, under Section 301 of the Labor Management Relations Act, Title 29 U.S.C. § 185(a), and under Title 28 U.S.C. § 1331. As provided in Title 29 U.S.C. § 1132(e)(2), venue is proper within the District.

3. At all relevant times, the Defendant has been a party to the Collective Bargaining Agreement, which sets the terms and conditions of employment, including Defendant's obligation to make benefit contributions, for the benefit of its employees.

4. The Collective Bargaining Agreement required the Defendant to submit to the Plaintiffs monthly benefit calculation forms, and corresponding benefit contribution payments. Here, the Defendant provided to the Plaintiffs payroll records for hours worked from July 1, 2006 through October 31, 2007. According to those reports, \$103,923.88 is due and owing for delinquent contributions for the period from July 1, 2006 to October 31, 2007, along with liquidated damages of 20% (\$20,784.78), interest at 1% per month through February 28, 2008 (\$19,152.69), and costs of collection of \$2,681.36. The total amount owed by Defendant to Plaintiffs is \$146,542.66.

5. The Court has adjudged Defendant to be in default.

CONCLUSIONS OF LAW

1. The Court has jurisdiction over this action under §§ 502 and 515 of ERISA, Title 29 U.S.C. §§ 1132 and 1145, and under Section 301 of the Labor Management Relations Act, Title 29 U.S.C. § 185(a), and under Title 28 U.S.C. § 1331.

2. The Court has personal jurisdiction over all of the parties to this action, and venue within this division of the District of Minnesota is proper. Title 29 U.S.C. § 1132(e)(2); Title 28 U.S.C. § 103(5).

3. The Plaintiffs have provided evidence of the total extent of their entitlement to compensatory damages, to liquidated damages, to additional contributions from the Defendant, interest, and costs of collection. In the presence of such an evidentiary showing, the Court may enter a money judgment in this matter.

NOW, THEREFORE, it is ordered,

1. The court grants Plaintiffs' motion.

2. Plaintiffs are entitled to judgment in their favor against Defendant in the amount of \$146,542.66.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated this 28th day of February, 2008.

BY THE COURT:

s/Richard H. Kyle
Hon. Richard H. Kyle
United States District Court Judge